

## 46 Am. Jur. 2d Judges § 27

American Jurisprudence, Second Edition | February 2022 Update

### Judges

Glenda K. Harnad, J.D.; and Kristina E. Music Biro, J.D., of the staff of the National Legal Research Group, Inc.

### V. Powers and Duties

#### A. In General

## § 27. Judges acting in vacation and at chambers

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  27, 28

Constitutions and statutes generally confirm the common-law practice of performing many of the duties of courts of general jurisdiction at judges' chambers, both during term time and while the court is in vacation, by conferring authority in particular matters on the court or the judge, or by a direct provision authorizing proceedings at chambers.<sup>1</sup> The legislature, where not restricted by the constitution, may confer such power on judges.<sup>2</sup> Where the constitution provides that the several judges of the courts of record will have such jurisdiction at chambers as may be provided by law, the judges, as such, have no authority at chambers except such as is expressly given them by law.<sup>3</sup> In this connection, generally, the term "court" may be interpreted to mean a judge in vacation or at chambers, where it is necessary to effect the intention of the legislature.<sup>4</sup> However, a judge sitting in vacation is not the court<sup>5</sup> and has no power to make an order that a statute requires to be made by the court.<sup>6</sup>

© 2022 Thomson Reuters. 33-34B © 2022 Thomson Reuters/RIA. No Claim to Orig. U.S. Govt. Works. All rights reserved.

### Footnotes

- 1 [In re Daly](#), 284 Minn. 567, 171 N.W.2d 818 (1969).  
Under a constitutional provision that the court must always be open, it cannot be successfully contended that an act done by a judge sitting on the bench where no jury is required has any greater legal force than the same act done in an adjoining room by courtesy, styled the judge's chambers, especially where the judge sat at a time and place agreed upon by the parties. [Meisenheimer v. Meisenheimer](#), 55 Wash. 32, 104 P. 159 (1909).
- 2 [Thorwarth v. Blanchard](#), 87 Vt. 38, 87 A. 52 (1913).
- 3 [Morrill County v. Bliss](#), 125 Neb. 97, 249 N.W. 98, 89 A.L.R. 932 (1933).
- 4 [Neal v. Haight](#), 187 Or. 13, 206 P.2d 1197 (1949).
- 5 [Louisville & N. R. Co. v. McDonald](#), 79 Miss. 641, 31 So. 417 (1902).
- 6 [State ex rel. Nelson v. Grimm](#), 219 Wis. 630, 263 N.W. 583, 102 A.L.R. 220 (1935).

The authority of a judge to accept a complaint for filing pursuant to statute is a function which a judge can only perform as "the court," and not away from the court room; accordingly, a complaint for damages for personal injuries presented to a judge who accepted it and marked it "filed" at the judge's residence on the day of the expiration of the statutory period of limitations was ineffective to interrupt the running of the statute of limitations. [Richmond v. Shipman](#), 63 Cal. App. 3d 340, 133 Cal. Rptr. 742 (1st Dist. 1976).

---

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.